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CONFIRMATION BY POST

22 February 2010

Dear Sirs

RE: European Patent No. EP1663809
Applicant: Obrist Closures Switzerland GmbH
Our File: PO3038EP93

In response to the communication of Notice of Opposition dated 12 October 2009 we file herewith the following observations.

Main Request

We request maintenance of the patent as granted without amendment.

It is submitted that independent Claim 1 is novel and inventive over D1 to D4.

D1

It is argued by the opponent that the corners (C, D), which are described as undesirable, would dissolve first to release the centre base (E). It is submitted that it is not certain in all circumstances covered by Claim 1 of the granted patent that thinner regions will dissolve first; for example the type of material and the shape of the regions will affect their solubility. Therefore, when applied to Claim 1 of the granted patent, it is not inevitable that the base (E) of D1 will be released undissolved.

Furthermore, Claim 1 of the granted patent specifies that the panel is defined by at least part of the chamber which is adapted to dissolve before the remainder of the chamber. It is noted that containers formed in accordance with the present invention (for example as shown in the drawings) might also have corners present as a result of the production process. Therefore, when interpreting the granted patent in the light of D1 the skilled man would realise that the corners per se are not adapted to dissolve before the remainder of the container and that therefore the parts of the wall defining the panel must comprise something additional to features arising inevitably as a result of production. Therefore, it is submitted that, even if the corners described in D1 dissolve first to release the panel this would not constitute at least part of a wall which is adapted to dissolve before the remainder of a chamber to define a panel.

Moreover, because the corners of D1 are defined as undesirable it is submitted that the skilled man would not be motivated to use D1 if he was to modify it to form a specific and deliberate panel-defining section. Therefore it is submitted that Claim 1 is inventive over D1.

D2

It is submitted that D2 does not describe a chamber which will release any panels. Furthermore, the purpose of D2 is to delay dissolution which is contrary to the present invention, where dissolution of the panel-defining region is required in order for the panel to be released.

D3

It is submitted that D3 is not relevant to the present invention. The hinge is removed after sealing and in any event dissolving of the hinge does not release the sealing part. Therefore, the sealing part does not form a panel which will be released undissolved to allow product escape before the remainder of the container dissolves.

D4

It is submitted that D4 does not describe a panel which will be released undissolved. The container is formed from two or more parts and, whilst different parts of the container may have different thicknesses relative to each other, there is no localised thinning providing panel-defining sections which will drop out undissolved.

First Auxillary Request

Claim 1 has been amended to specify two or more discrete chambers and sequential release of product from the chambers at different times. Support for the introduction of these features is to be found in figures 1 to 5 of the specification as filed and the accompanying description; and in paragraphs 3 to 5 of the granted specification (present on filing).

It is submitted that none of documents D1 to D4 discloses a sequentially releasing container in which one or more drop-out panels are used to cause release of products from discrete chambers after different times.

The arguments submitted in support of the Main Request are also relevant.

Second Auxillary Request

Claim 1 has been amended to introduce the limitation that the container is formed by injection moulding. Support for the introduction of this feature is to be found in paragraph 11 of the granted specification (present on filing). Claim 11 is newly introduced and specifies that the area of the panel forms the gate region for the injection moulding. Support for the introduction of this claim is to be found in paragraph 11 of the granted specification (present on filing).

The arguments submitted in support of the Main Request are also relevant to this Request.

Third Auxillary Request

Claim 1 has been amended in the following ways: 1.) The container comprises at least two discrete chambers - support for the introduction of this feature is to be found in the drawings and accompanying description and also in paragraphs 3 to 5 of the granted specification (also present in the specification as filed); 2.) The soluble wall portion surrounds the panel - support for the introduction of this feature is to be found, for example in paragraph 20 of the granted specification (also present on filing); 3.) The panel is released from the remainder of the chamber - support for the introduction of this feature is to be found in paragraph 20 of the granted specification (also present on filing).

The arguments submitted in support of the Main Request are also relevant to this Request.

Sufficiency

It is submitted that the patent describes the invention in a manner such that it could be carried out by persons skilled in the art. All of the requirements noted by the opponent would be self-evident to the person skilled in the art and in fact likely form part of the common general knowledge. For example, forming containers with non-uniform thicknesses is well known in the art, such as by well-known moulding techniques.

Reservations

We reserve the right to make amendments to any of the Requests filed herewith and request that we be allowed to file further Requests if necessary; and that we be allowed to cancel claims and/or combine any one or more of the Requests.

If further facts and/or arguments are presented by the Opponent or the Opposition Division in consideration of the patent we hereby request an opportunity to consider and respond to such observations.

We respectfully request Oral Proceedings in the event that the Opposition Division is of the opinion that the opposed patent cannot be maintained.

Please acknowledge receipt of this letter and its enclosures by stamping and returning the enclosed EPO Form 1037.

Yours faithfully

Dr Matthew Greenwood
For and on behalf of
BRYERS